

AN ORDINANCE approving the Contract between the state of Indiana through the Indiana Department of Transportation and the City of Fort Wayne through the Board of Public Works transferring jurisdiction of the present SR 37 from Coliseum Blvd. (US24/30) to the east corporate limits of the City of Fort Wayne.

WHEREAS, the State is constructing the Fort Wayne Bypass from Interstate Highway 69 (I-69) at Lafayette Center Road around south and east of the urbanized area and connecting to I-69 north of Fort Wayne; and

WHEREAS, traffic using the bypass will, to a large extent, be generated outside the urbanized area and traffic inside the bypass, will to a large extent, be local; and

WHEREAS, the State has determined pursuant to I.C. 8-23-4-2 that existing SR 37 from Coliseum Blvd. (US24/30) to the east corporate limits of Fort Wayne will no longer be the most appropriate and/or convenient way to route traffic, but the road will continue to serve a useful purpose; and

WHEREAS, I.C. 8-23-4-12 provides for the transfer of roads or streets between systems.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the Contract between the state of Indiana through the Indiana Department of Transportation and the City of Fort Wayne through the Board of Public Works and Safety transferring jurisdiction of the present SR 37 from Coliseum Blvd. (US24/30) to the east corporate limits of Fort Wayne is hereby approved and ratified.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage, and any and all necessary approval by the Mayor.

Janet G. Bradbury
Councilmember

APPROVED AS TO FORM
AND LEGALITY

J. Timothy McCauley
J. Timothy McCauley, City Attorney

CONTRACT

This contract is made and entered into Aug. 14, 1991 by and between the state of Indiana acting by and through the Indiana Department of Transportation (hereinafter referred to as the STATE) and City of Ft. Wayne acting by and through the Board of Public Works & Safety of Ft. Wayne (hereinafter referred to as the CITY).

WITNESSETH:

WHEREAS, the STATE is constructing the Fort Wayne Bypass from Interstate Highway 69 (I-69) at Lafayette Center Road around south and east of the urbanized area and connecting to I-69 north of Fort Wayne and has an estimated completion date in 1993;

WHEREAS, traffic using the bypass will, to a large extent, be generated outside the urbanized area and traffic inside the bypass will, to a large extent, be local;

WHEREAS, the STATE has determined pursuant to I.C. 8-23-4-2 that existing SR 37 from Coliseum Blvd. (US24/30) to the east corporate limits of Ft. Wayne will no longer be the most appropriate and/or convenient way to route traffic, but the roads will continue to serve a useful purpose;

WHEREAS, I.C. 8-23-4-12 provides for the transfer of roads or streets between systems.

NOW, THEREFORE, in consideration of the premises and the following mutually dependent covenants, the parties agree as follows:

Section 1

The parties hereto shall comply with applicable provisions set forth in (1) Title 23 of the US Code (2) the regulations issued thereto, and (3) the policies and procedures of the STATE and Federal Highway Administration relative to the work covered by this Agreement that is to utilize Federal-Aid funds.

Section 2

The STATE shall transfer jurisdiction of the present SR 37 from Coliseum Blvd. (US24/30) to the east corporate limits of Ft. Wayne. See Exhibit A. The CITY shall accept jurisdiction of SR 37 after completion of the following STATE projects:

A. Added Travel Lanes on SR 37 from 0.2 mi. north east of US 30 to Hobson Road(Des. #61540)

B. Added Travel Lanes on SR 37 from Hobson Road to 0.2 mi. west of Maplecrest (Des. #61541).

C. Resurface Hatfield Road from US 24/30 (Coliseum Blvd.) to the southeast limited access right-of-way

at I-69 (0.7 mile)

D. As per attached letter from Commissioner John J. Dillon dated August 8, 1991.

Section 3

The STATE shall send the CITY a letter by registered or certified mail to establish the effective date of the transfers. The STATE will provide detail drawings of termini of all routes being transferred from STATE jurisdiction to local agency jurisdiction at the time of transfer.

Section 4

The CITY shall provide all maintenance, reconstruction and construction for the roads transferred in Section 2 after the STATE sends a letter by registered or certified mail establishing the effective dates of the transfers.

Section 5

The STATE shall supply the CITY with a copy of all Official Actions for all traffic controls and existing plans for the roads mentioned in Section 2.

Section 6

The STATE reserves the right to terminate this Agreement if the CITY fails to perform the acts required by this Agreement, or the STATE may elect to pursue any remedy available at law or equity.

Section 7

The CITY and its subcontractors, if any, shall not discriminate against any employee or applicant for employment, to be employed in the performance of work under this agreement, with respect to hire, tenure, terms, conditions or privileges of employment, because of race, color, religion, sex, handicap, national origin or ancestry. Breach of this covenant may be regarded as a material breach of this contract.

Section 8

The CITY agrees to indemnify, defend, exculpate, and hold harmless the STATE, its officials and employees from any liability due to loss, damage, injuries, or other casualties of whatever kind, or by whomsoever caused, to the person or property of anyone on or off the right-of-way arising out of, or connected therewith, or from the installation, existence, use, maintenance, condition, repairs, alteration or removal of any equipment or materials, whether due in whole or in part to the negligent

acts or omissions of the CITY, its agents or employees, or other persons engaged in the performance of the work including any claims arising out of the Workmen's Compensation Act or any other law, ordinance, order, or decree. The CITY agrees to pay all reasonable expenses and attorneys fees incurred by or imposed on the STATE in connection herewith in the event that the CITY shall default under the provisions of this section. The effective date of this section with respect to each section of road shall be the effective date of each transfer.

INSOFAR as authorized by law, this contract shall be binding upon the parties, their successors or assignees.

THIS AGREEMENT shall not be effective unless and until it is approved by the Attorney General of Indiana, or his authorized representative, as to legality and form.

IN WITNESS WHEREOF, the parties have executed this contract.

BOARD OF PUBLIC WORKS & SAFETY
FT. WAYNE

STATE OF INDIANA
INDIANA DEPARTMENT OF
TRANSPORTATION

Charles E. Layton, Dir. of Public Works

Recommended for Approval

Douglas M. Lehman, Dir. of Admin. & Finance

Katherine A. Carrier, Member

Katherine R. Lyon
Katherine R. Lyon
Deputy Commissioner,
Development

Paul Helmke
Paul Helmke, Mayor

Executed By:

John J. Billon
John J. Billon
Commissioner

ATTEST:

Patricia J. Crick
Patricia J. Crick, Clerk

ATTEST:

Daniel A. Novreske
Daniel A. Novreske
Deputy Commissioner,
Administration

Approved as to Legality
and Form:

Linley E. Pearson, clerk (FOR)
Linley E. Pearson
Attorney General

Date Approved: 8/15/91

A C K N O W L E D G M E N T

State of Indiana County of Allen, SS:

Before me, the undersigned Notary Public in and for said County
personally appeared Douglas M. Lehman, Katherine A. Carrier, Bd. of Works, Paul Helmke
Mayor

(Name of signers, their official

capacity and agency name)

and each acknowledged the execution of the foregoing agreement on this

14th day of August 1991

Witness my hand and seal the said last named date.

My Commission Expires

~~CAROLYN S. NEWPORT~~
NOTARY PUBLIC STATE OF INDIANA
ALLEN COUNTY
MY COMMISSION EXPI. JUNE 21, 1993

Carolyn S. Newport
Notary Public

County of Residence

Typed or Printed Name

A C K N O W L E D G M E N T

State of Indiana, County of Marion, SS:

Before me, the undersigned Notary Public in and for said County,
personally appeared John L. Dillon, Commissioner of the Indiana
Department of Transportation, and acknowledged the execution of the foregoing
agreement on this 15 day of August, 1991.

Witness my hand and seal the said last named date.

My Commission Expires

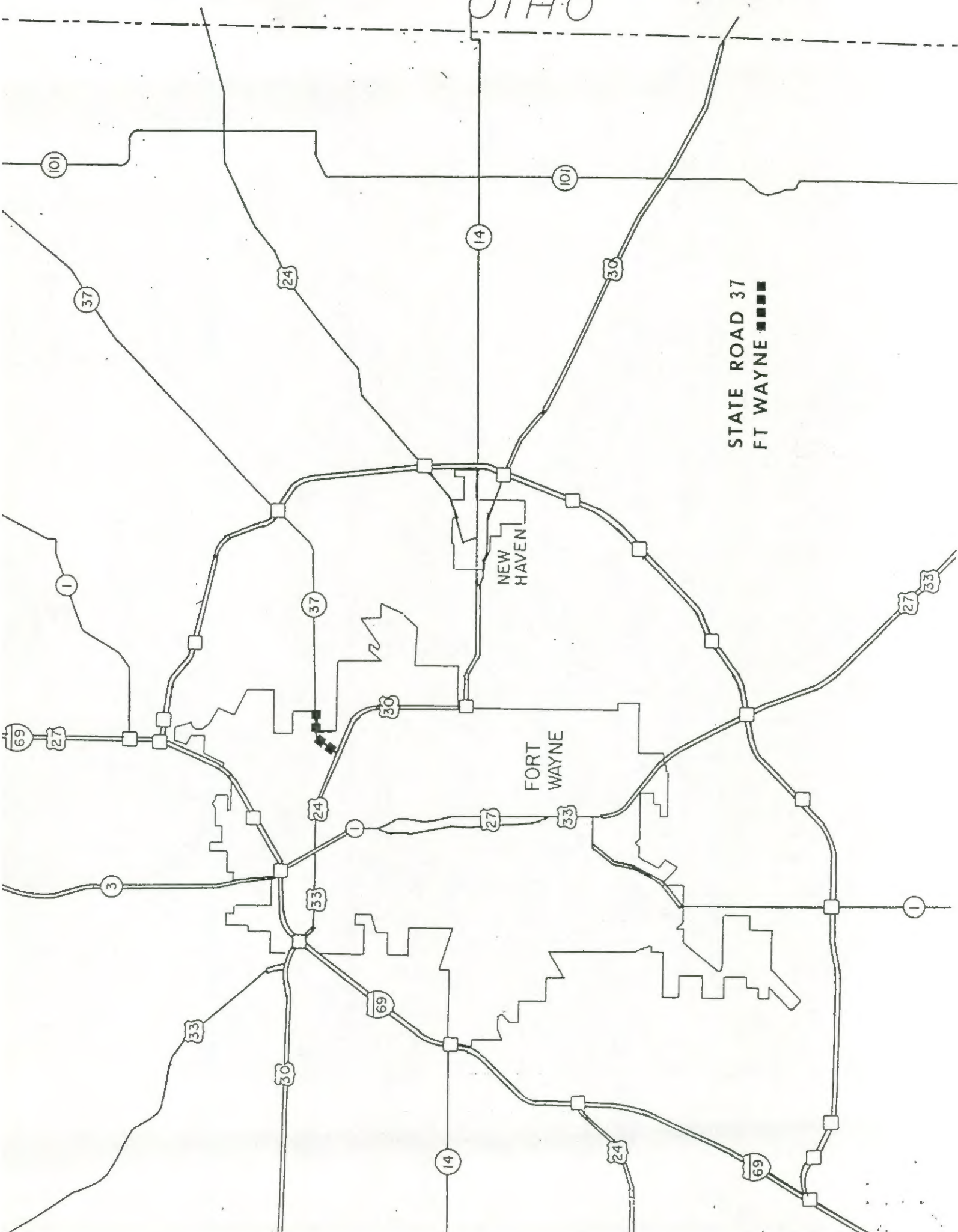
9-23-93

Melany K. Hall
Notary Public

Shelley
County of Residence

Melany K. Hall
Typed or Printed Name

01 H.O



STATE ROAD 37
FT WAYNE ■■■■



INDIANA DEPARTMENT OF TRANSPORTATION
100 North Senate Avenue
Room 1101
Indianapolis, Indiana 46204-2249
(317) 232-5533 Fax (317)-232-0238

OFFICE OF THE COMMISSIONER
Room 1101
State Office Building
Indianapolis, Indiana 46204-2249
317-232-5526

August 8, 1991

The Honorable Paul Helmke
Mayor, City of Fort Wayne
Room 900
One Main Street
Fort Wayne, Indiana 46802

ATTN: Carl O'Neal

RE: SR 37 Relinquishment
Agreement - City of
Fort Wayne

Dear Sir:

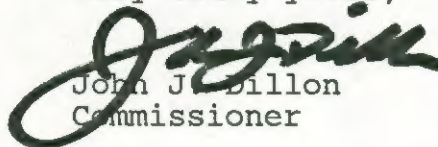
This office has been informed by our Fort Wayne District personnel of several issues in the SR 37 Relinquishment Agreement, requiring clarification.

This relinquishment will not be finalized until all the conditions in Section 2 of the agreement have been completed and the new interchange at SR 37 and the New Fort Wayne Bypass is open to traffic.

Another concern brought to our attention was in regards to the improvement of the intersection at US 24/30 (Coliseum Blvd.) and SR 37 (Crescent Ave.). It is our intention that this project be a condition of agreement for the relinquishment of US24/30 through the City of Fort Wayne.

Should you have any further questions, please contact Mr. John Passey of the Fort Wayne District office.

Very truly yours,


John J. Dillon
Commissioner

JJD/JPW/jpw

cc: N. John Passey/Ft.Wayne District
File

Read the first time in full and on motion by Bradbury
seconded by Redd, and duly adopted, read the second time
title and referred to the Committee on Public Works (and the
City Plan Commission for recommendation) and Public Hearing to be held aft
due legal notice, at the Council Conference Room 128, City-County Building
Fort Wayne, Indiana, on _____, the
of _____, 19____, at _____ o'clock _____ M., E.S.

DATED: 8-27-91

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Bradbury
seconded by Redd, and duly adopted, placed on its
passage. PASSED 12-10 by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	<u>8</u>			<u>1</u>
BRADBURY	<u>✓</u>			
BURNS	<u>✓</u>			
EDMONDS	<u>✓</u>			
GIAQUINTA				<u>✓</u>
HENRY	<u>✓</u>			
LONG	<u>✓</u>			
REDD	<u>✓</u>			
SCHMIDT	<u>✓</u>			
TALARICO	<u>✓</u>			

DATED: 9-10-91

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,
Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)
(SPECIAL) (ZONING MAP) ORDINANCE RESOLUTION NO. 1-228-91
on the 10th day of September, 1991,

Sandra E. Kennedy ATTEST
SANDRA E. KENNEDY, CITY CLERK

SEAL
Samuel J. Talarico
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on
the 11th day of September, 1991
at the hour of 4:00 o'clock P. M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 16th day of September
1991, at the hour of 12:15 o'clock P. M., E.S.T.

Paul Helmke
PAUL HELMKE, MAYOR

DIGEST SHEET

TITLE OF ORDINANCE ORDINANCE

DEPARTMENT REQUESTING ORDINANCE BOARD OF PUBLIC WORKS

SYNOPSIS OF ORDINANCE APPROVES THE CONTRACT BETWEEN THE STATE OF
INDIANA AND THE CITY OF FORT WAYNE TRANSFERRING EXISTING SR 37 FROM
COLISEUM BLVD. (24/30) TO THE EAST CORPORATE LIMITS OF FORT WAYNE
FROM THE STATE OF INDIANA TO THE CITY OF FORT WAYNE.

J-91-08-37

EFFECT OF PASSAGE CONTRACT APPROVED, ROAD BECOMES THE JURISDICTION
OF THE CITY OF FORT WAYNE

EFFECT OF NON-PASSAGE ROAD REMAINS THE JURISDICTITION OF THE STATE
OF INDIANA

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) _____

ASSIGNED TO COMMITTEE (PRESIDENT) _____

BILL NO. S-91-08-37

REPORT OF THE COMMITTEE ON PUBLIC WORKS

JANET G. BRADBURY, CHAIRPERSON
CLETUS R. EDMONDS, VICE CHAIRMAN
GIAQUINTA, REDD, HENRY

WE, YOUR COMMITTEE ON PUBLIC WORKS TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) approving the Contract
between the state of Indiana through the Indiana Department of
Transportation and the City of Fort Wayne through the Board of
of Public Works transferring jurisdiction of the present SR 37
from Coliseum Blvd. (US24/30) to the east corporate limits of
the City of Fort Wayne

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (~~RESOLUTION~~)

DO PASS

DO NOT PASS

ABSTAIN

NO REC

J. Bradbury
C. R. Edmonds
G. Redd

DATED: 9-10-91.

Sandra E. Kennedy
City Clerk